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Filed: 07/5/02
49th day: 08/23/02
Staff: JB
Staff report prepared: 07/18/02
Hearing date: 08/08/02
Hearing item number: Th8a

COASTAL DEVELOPMENT PERMIT APPEAL: SUBSTANTIAL ISSUE DETERMINATION

Application numberA-3-SLO-02-050, Monaco SFD

Applicant.....Steve and Sue Monaco

Project location.....Ogden Drive (West Lodge Hill area), Cambria, San Luis Obispo County (APN 023-122-018).

Project descriptionConstruct a single-family residence and attached garage with a 1,677 sq. ft. footprint and 2,967 sq. ft. of gross structural area, and 387 sq. ft. transfer of development credits.

Local approval.....San Luis Obispo County: Coastal Development Permit D010064P.

File documents.....San Luis Obispo County Certified Local Coastal Program; Coastal Development Permit D010064P; SLO County Staff Report (5/21/02); North Coast Area Plan; San Luis Obispo County LCP 2001 Periodic Review.

Staff recommendation ...No Substantial Issue

Summary: The Applicant proposes to construct a two-story residence, approximately 1,677 square feet in size. The subject site is a double, oversized lot of approximately 4,521 square feet located at Ogden Drive, in the West Lodge Hill area in the community of Cambria, San Luis Obispo County. The County approved the project subject to 12 conditions, finding it consistent with the San Luis Obispo County Local Coastal Program. The standard of review is the San Luis Obispo County Local Coastal Program.

The appellant's contentions relate to the availability of adequate public services in the community of Cambria. The appellant, Ken Renshaw, has appealed the final action taken by San Luis Obispo County on the basis that approval of the project is inconsistent with provisions of the San Luis Obispo County Local Coastal program regarding the adequacy of water availability. As required by Public Works Policy 1 of the San Luis Obispo County's *Coastal Plan Policies*, all new development must demonstrate that there is sufficient water supply to serve the development. The Commission has previously recognized the serious water supply situation in Cambria. In this case, there is evidence in the County file of a valid intent-to-serve letter (dated 12/1/01), providing that the project's water requirements will be adequately served. In addition, the Cambria Community Service District has adopted a moratorium on new water connections. On balance, the Commission Staff recommends **No Substantial Issue**.



California Coastal Commission
August 2002 Meeting in San Luis Obispo

Staff: JB Approved by:

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I. Local Government Action

San Luis Obispo County's Zoning Administrator approved a coastal development permit for the subject house on Lodge Hill in Cambria on February 15, 2002. Ken Renshaw appealed this action to the Board of Supervisors. The Zoning Administrator action was upheld and the appeal was denied on May 21, 2002, by a vote of 4 to 1. The county also approved a Negative Declaration (of no significant environmental impacts) under the California Environmental Quality Act.

II. Summary of Appellant's Contentions

The appellant, Ken Renshaw, has appealed the final action taken by San Luis Obispo County on the basis that approval of the project is inconsistent with provisions of the San Luis Obispo County Local Coastal program regarding the adequacy of water availability. The appeal claims that the County granted a land use permit for a new development in Cambria without determining that there is adequate water available to serve the proposed development and that the will-serve letter issued by the CCSD as proof of water availability was erroneously accepted by the County. The complete text of the appellant's contentions can be found in Exhibit E, along with clarifying letters.



III. Standard Of Review For Appeals

Coastal Act section 30603 provides for the appeal of approved coastal development permits in jurisdictions with certified local coastal programs for development that is (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance; (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; (3) in a sensitive coastal resource area; (4) for counties, not designated as the principal permitted use under the zoning ordinance or zoning district map; and (5) any action on a major public works project or energy facility. This project is appealable because it is located in a sensitive coastal resource area (Terrestrial Habitat – Monterey Pine Forest).

The grounds for appeal under section 30603 are limited to allegations that the development does not conform to the standards set forth in the certified local coastal program or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a *de novo* coastal development permit hearing on an appealed project unless a majority of the Commission finds that “no substantial issue” is raised by such allegations. Under section 30604(b), if the Commission conducts a *de novo* hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program in order to approve a coastal development permit for the project. Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter Three of the Coastal Act, if the project is located between the first public road and the sea, which is not the case with this project.

IV. Staff Recommendation On Substantial Issue

The staff recommends that the Commission determine that **no substantial issue** exists with respect to the grounds on which the appeals were filed pursuant to coastal Act Section 30603.

MOTION: *I move that the Commission determine that Appeal No. A-3-SLO-02-050 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION OF NO SUBSTANTIAL ISSUE:

Staff recommends a **YES** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application *de novo* and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.



RESOLUTION TO FIND NO SUBSTANTIAL ISSUE:

The Commission finds that Appeal No. **A-3-SLO-02-050** does not present a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

V. Recommended Findings and Declarations

The Commission finds and declares as follows:

A. Project Description

1. Project Location

The project is located at Ogden Drive in the community of Cambria, San Luis Obispo County. West Lodge Hill is an extensive residential area located within the Monterey Pine forest terrestrial habitat, south of Highway One (Exhibit 1). The topography of the West Lodge Hill area is varied with numerous ridges and gullies, steep slopes, and nearly flat areas near the marine terrace. The majority of the lots in the area are very small, typically 25 feet by 70 feet, and therefore historic development has been relatively dense. However, it is common for present-day proposals to consolidate two or three lots to create larger sites more appropriate for development.

2. Project Description

The project site is an oversized double lot of approximately 4,521 square feet (please see Exhibit 2 for project plans). The proposed residence consists of the garage and living space on two levels, both above the average natural grade. The overall height of the proposed residence is 28 feet, as measured from the average natural grade of the site.

B. Substantial Issue Determination

1. Public Services

a. Relevant Local Coastal Program Provisions

As required by Public Works Policy 1, all new development must demonstrate that there is sufficient water supply to serve the development:

Public Works Policy 1: Availability of Service Capacity

New development (including divisions of land) shall demonstrate that adequate public or private service capacities are available to serve the proposed development. Priority shall be given to infilling within existing subdivided areas. Prior to permitting all new development, a finding shall be made that there are sufficient services to serve the proposed



development given the already outstanding commitment to existing lots within the urban service line for which services will be needed consistent with the Resource Management System where applicable...

This policy is implemented by CZLUO 23.04.430:

CZLUO Section 23.04.430 - Availability of Water Supply and Sewage Disposal Services. *A land use permit for new development that requires water or disposal of sewage shall not be approved unless the applicable approval body determines that there is adequate water and sewage disposal capacity available to serve the proposed development, as provided by this section . . .*

In addition these urban service policies, water supply for new development in Cambria must be considered in light of LCP priorities for Agriculture and Visitor-serving development.

Agriculture Policy 7: Water Supplies

Water extractions consistent with habitat protection requirements shall give highest priority to preserving available supplies for existing or expanded agricultural uses. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Recreation & Visitor-Serving Facilities Policy 2: Priority for Visitor-Serving Facilities.

Recreational development and commercial visitor-serving facilities shall have priority over non-coastal dependent use, but not over agriculture or coastal dependent industry in accordance with PRC 30222. All uses shall be consistent with protection of significant coastal resources... [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Finally, The North Coast Area Plan component of the LCP contains a development standard for the Cambria Urban Area that requires:

Reservation of Service Capacity. *To allow for continued growth of visitor-serving facilities, 20% of the water and sewer capacity shall be reserved for visitor-serving and commercial uses.*

b. County Action

On May 21, 2002 the San Luis Obispo County Board of Supervisors denied the appeal by Mr. Renshaw and voted 4-1 to approve the Minor Use/Coastal Development Permit D010064P. The County staff report (for 5/21/02) does not make a specific finding with regard to water availability, but rather, states that the CCSO's intent-to-serve letter is the document attesting to the District's capabilities. The County accepted this intent-to-serve letter as evidence of adequate water and sewer service capacity to serve the proposed project.



c. Analysis

1. History/Background

1977 Coastal Development Permit

The Coastal Commission has been concerned with the lack of water to support new development in Cambria since the adoption of the Coastal Act. As early as 1977, in a coastal permit to allow the Cambria Community Services District (CCSD) to begin drawing water from San Simeon Creek, the Commission expressed concern about overdrafting this groundwater basin. In that permit, the Commission limited the urban service areas for this new water supply and identified the maximum number of dwelling units that could be served as 3,800¹. A condition of that 1977 coastal development permit stated that:

use of all District wells on Santa Rosa Creek shall be discontinued when water production from San Simeon Creek has been established. Any continued permitted use of the Santa Rosa Creek wells shall be limited to the supplementing of San Simeon Creek well production in years when the 1230 acre feet cannot be safely removed. Except in the emergency situations defined below, the withdrawal of water from Santa Rosa Creek shall not exceed 260 acre feet during the dry season which normally extends from July 1 through November 20 and shall not exceed 147 acre feet per month at any other time. At no time shall the combined withdrawal from San Simeon Creek and Santa Rosa Creek exceed the 1230 acre feet annually. In addition, the following emergency situations shall be permitted: fire or any emergency use authorized by the State Water Resources Control Board or the State Health Department. Until the San Simeon Creek wells are functioning, no new water permits shall be permitted in the District.

LCP Certification

When the Land Use Plan of the County's LCP was certified in 1984, the concern remained that there was inadequate water to serve existing parcels within Cambria. The findings regarding Cambria stated that based on the land uses and intensities designated in the LUP for subdivided and un-subdivided land, 8,150 dwelling units could be developed; however, it was estimated that the community of Cambria had adequate water and sewage capacities to serve 5,200 dwelling units (in 1984). The findings continue to state:

Buildout of the existing subdivided parcels alone within the USL [Urban Services Line] would result in a number of dwelling units for which there is inadequate sewer and water capacity. Clearly the community does not have adequate services to supply the LUP proposed development within the USL without severely overcommitting its water supplies and sewage treatment facilities.

¹ Application 132-18.



In anticipation of growth related resource demands, the County created the Resources Management System, which is intended primarily to indicate when and where service facilities (water supply, sewage disposal, roads, schools, and air quality) must be expanded or extended to meet population growth demands. The RMS is designed to be a growth management tool; however, it is oriented toward finding services to support development and does not factor impacts on natural systems into the search, nor does it propose limits on growth in recognition of the limits of the lands ability to supply water for new development.

The RMS uses three levels of alert (called Levels of Severity, or LOS) to identify potential and progressively more immediate resource deficiencies. The alert levels are meant to provide sufficient time for avoiding or correcting a shortage before a crisis develops. Level I is defined as the time when sufficient lead time exists either to expand the capacity of the resource or to decrease the rate at which the resource is being depleted. Level II identifies the crucial point at which some moderation of the rate of resource use must occur to prevent exceeding the resource capacity. Level III occurs when the demand for the resource equals or exceeds its supply.

The Resource Management System reports have consistently identified water supply as a serious concern in Cambria. In 1990, the RMS report recommended that the Board of Supervisors consider a development moratorium. The RMS outlines specific measures that must be implemented for each LOS if the Board formerly certifies the recommended level. However, the BOS has never certified any LOS for Cambria. Most recently, the RMS recommended a LOS III.

1998 North Coast Area Plan

More recently, the Commission evaluated available water supply for Cambria in its review of the County's North Coast Area Plan update. After evaluating the availability of water in San Simeon and Santa Rosa Creek, the Commission found that existing development (1997) may be overdrafting these creeks, and adversely affecting wetlands and riparian habitats. Thus, the Commission adopted findings and a suggested modification that would require completion of three performance standards prior to January 1, 2001: completion of an instream flow management study for Santa Rosa and San Simeon Creek; completion of a water management strategy which includes water conservation, reuse of wastewater, alternative water supply, and potential off stream impoundments; and cooperation of the County and CCSD to place a lot reduction ballot measure before the Cambria electorate. If these standards were not performed by January 1, 2001, the modification required a moratorium on further withdrawals from San Simeon and Santa Rosa Creeks.

Although the County never accepted the modified amendment and is therefore not subject to the moratorium provision, the severity of the measures proposed reflects the gravity of the community's future if development continues to be permitted at its existing rate. More important, since the 1998 Commission action, the water supply situation has been further constrained by MTBE contamination of Santa Rosa Creek.



2001 Periodic Review

The Coastal Act requires that every certified LCP be reviewed periodically to determine whether the LCP is being effectively implemented in conformity with the policies of the Coastal Act. On July 12, 2001 the Commission adopted the *Periodic Review of the San Luis Obispo County LCP*. In this report, the Commission made a number of recommendations related to environmentally-sustainable urban development in Cambria. In terms of specific findings, the Preliminary Report highlights the problems of short and long-term growth in Cambria. The report concludes that Cambria has serious concerns related to limited groundwater supply and the protection of sensitive habitat areas with respect to the sustainability of existing and future development in an area with limited water supplies. The Commission adopted the following recommendation in its July, 2001 Periodic Review action:

Recommendation 2.13. Continue implementation of the 1% growth rate in Cambria until 1/1/02, after which time coastal development permits for new development that would require a new water connection or that would otherwise create additional water withdrawals from Santa Rosa or San Simeon Creeks should not be approved unless the Board of Supervisors can make findings that (1) water withdrawals are limited to assure protection of instream flows that support sensitive species and habitats; (2) there is adequate water supply reserved for the Coastal Act priority uses of agricultural production, and increased visitors and new visitor-serving development; (3) a water management implementation plan is incorporated into the LCP, including measures for water conservation, reuse of wastewater, alternative water supplies, etc., that will assure adequate water supply for the planned build-out of Cambria or that will guarantee no net increase in water usage through new water connections (e.g. by actual retrofitting or retirement of existing water use); (4) substantial progress has been made by the County and the CCSO on achieving implementation of buildout reduction plan for Cambria; and (5) there is adequate water supply and distribution capacity to provide emergency response for existing development.

CCSD Water Moratorium

Most recently, the Cambria Community Service District (CCSD) has taken more programmatic steps towards resolving the unsustainable development trends in Cambria. On October 25, 2001 the CCSD Board of Directors considered whether to pursue the declaration of a water shortage emergency. At that meeting, the Board of Directors determined that sufficient evidence existed to consider the declaration of a water shortage emergency based on an inability to accommodate the anticipated growth of the community in the near future. It should be noted, however, that at this same meeting the Board voted to approve thirty-eight (38) intent-to-serve letters (one of which is the subject of appeal).

On November 15, 2001 the CCSD Board of Directors declared a water emergency. Part of this action included not allowing any additional intent-to-serve letters to be issued (i.e. anything beyond those that were issued during the October 25, 2001 meeting). The following list includes additional actions adopted by the CCSD to accompany the declaration of a water emergency:



- Reactivate the retro-fit program as contained in the CCSD Ordinances 1-98, 2-98, and 2-99;
- Investigate additional opportunities to implement water saving measures through the retro-fit program;
- Enforce Ordinance 4-2000 (water waste provision);
- Identify any additional opportunities to improve Ordinance 4-2000;
- Request that the County of San Luis Obispo adopt restrictions on the installation of landscaping within the Cambria CSD to minimize the impact or irrigation on water supplies;
- Develop a plan to ensure the enforcement of all restrictions and regulations regarding water usage in Cambria;
- Pursue the development of water master plan;
- Evaluate the current rate structure and develop changes and improvements.

Through the declaration of a moratorium on new water connections, the CCSD has taken a critical step in curbing short-term development potential in Cambria. Since October 25, 2001 no new intent-to-serve letters have been issued by the CCSD. The moratorium effectively limits new development in Cambria until the uncertainty with respect to water supplies can be resolved. However, the moratorium does not limit those projects declared “in the pipeline” by the CCSD. “Pipeline projects” are defined as projects that have development applications accepted for processing by the County, and are also accompanied by an intent-to-serve letter from the CCSD.

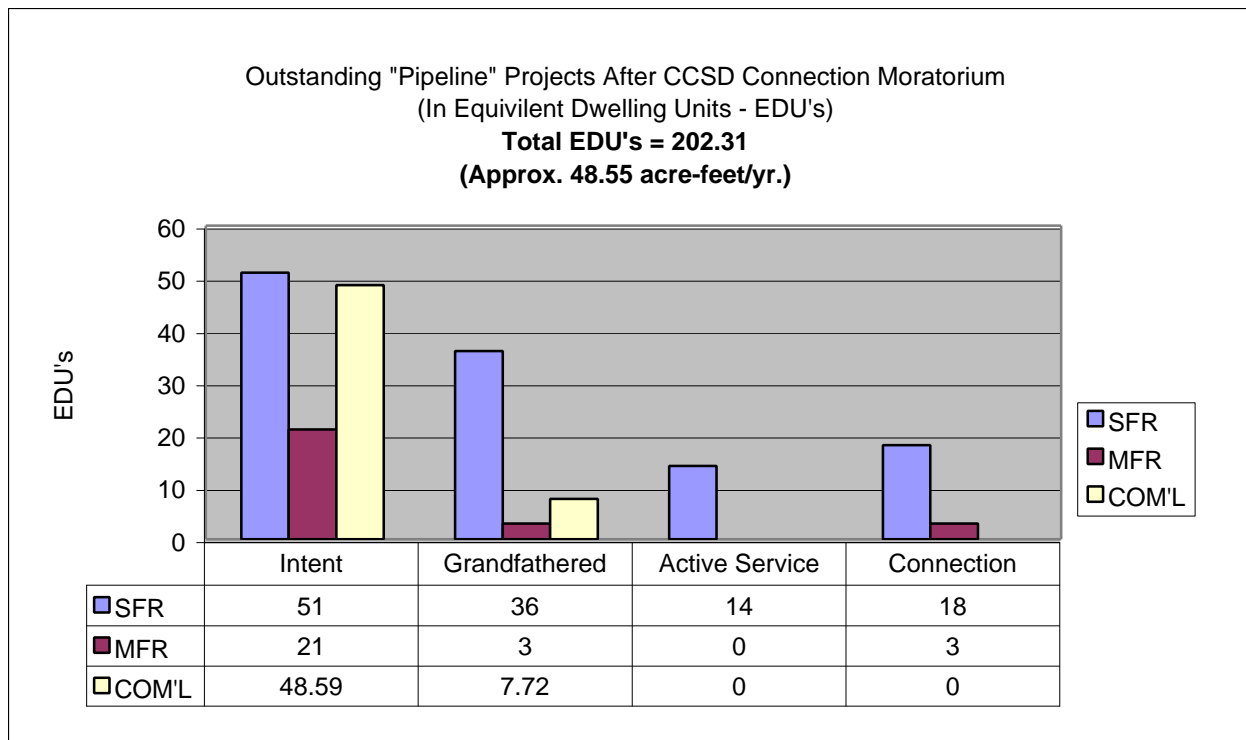
As mentioned, the CCSD declared a water emergency on November 15, 2001. At the time the moratorium was declared, there were 124 outstanding commitment letters remaining, including 14 with active service meters, 20 with connection permits, 25 grandfathered meters², and 65 previously issued intent-to-serve letters (including the 38 approved commitments of the Oct 25, 2001 CCSD Board Meeting). These outstanding commitments include both residential and commercial development totaling 202.31 “Equivalent Dwelling Units”(EDU’s)³, or approximately 48.55 acre-feet of water. In 2000, the CCSD supplied a total of 798 acre-feet of water. Based on these figures, the total “pipeline projects” represent an approximate 6.1% increase in total water supplies needed to serve these outstanding commitments.

The following graphic represents the outstanding “pipeline project” commitments displayed in equivalent dwelling units (EDU’s) following the declaration of a moratorium on new water connections by the CCSD.

² Grandfathered meters are defined as those commitments established prior to the development of the 1991 CCSD waiting list, those meters with an existing service commitment, or those projects with water meters already in place at the time of the moratorium.

³ In Cambria, an Equivalent Dwelling Unit (EDU’s) is equal to approximately 217 gallons (.24 acre feet) per dwelling unit.





The “pipeline projects” list presents a starting point when analyzing individual projects for recommendation to the Commission. It is important to note, however, that being on this list does not ensure approval by the Commission. Each project on the list must be evaluated on its individual merits. All projects included must be analyzed for the amount of water used and for consistency with the complete spectrum of governing LCP policies and ordinances.

2. Substantial Issue Analysis

The issue brought forth by the appellant relates to the adequacy of available water supplies to support new development. In terms of this coastal development permit analysis, water supply data presented supports a finding that the standards of the certified LCP to assure sustainable new development are not being met. Specifically, Public Works Policy 1 requires that:

prior to permitting all new development, a finding shall be made that there are sufficient services to serve the proposed development given the already outstanding commitment to existing lots within the urban service line for which services will be needed . . .

The subject lot is an existing legal parcel. The issue presented here is whether there is adequate water to serve this parcel as well as all of the existing developed parcels in Cambria, as it is clear there is not enough water to serve all of the existing developed and all of the vacant parcels (build-out). The CCSD has, by allocating water service to this project found that adequate water is available for this project



based on information from their engineer. The CCSD also has found that there is not adequate water to serve build-out by imposing a moratorium on future water connections.

In terms of this project, the first issue to consider is timing. The timing of the issuance of the intent-to-serve letter relative to the declaration of the water emergency is an important consideration. As discussed previously, on November 15, 2001 the CCSD Board of Directors declared a water emergency based on the inability to extend service in the future to accommodate planned community growth. Part of this action included not allowing any additional intent-to-serve letters to be issued (i.e. anything beyond those that were issued up until and during the October 25, 2001 meeting). At that time the CCSD engineer presented to the Board of Directors an estimate of the outstanding EDU commitments, and concluded that adequate water supplies existed to support these "pipeline projects." The CCSD Board, with an understanding of the information presented by the engineer, concluded that it was appropriate to grant approval of these remaining 2001 intent-to-serve letters. In this case, the applicant has received a will-serve letter from the CCSD prior to the declaration of the water emergency.

Second, it is important to understand the quantity of water needed to support the proposed use. The applicant proposes to construct a single-family residence, requiring one (1) additional "equivalent dwelling unit" (EDU) of water. In 2000, the CCSD produced a total of 798 acre-feet of water. The community's average water consumption rate in 1997-98 was approximately 217 gallons per dwelling unit per day (0.24 AFY per dwelling unit). Applying this water consumption figure to this project, the amount of water needed to serve this project represents an increase in water demand of 1/3200 acre-feet per year (AFY). At face value, this is a relatively unsubstantial increase. Not allowing this project to move forward would do little towards curbing unsustainable development trends that currently exists in the community of Cambria.

Third, a number of options are available to address the short-term problem of water supply in Cambria. Clearly, the ability to provide adequate water for future development in Cambria is a significant unresolved issue. However, the approach taken by the Commission to address this issue to date has been a programmatic one, focused on addressing the problems and unresolved questions through comprehensive planning and resource management, rather than calling for an immediate halt to all new development.

It should be acknowledged, though, that both the County and the CCSD have taken steps in addressing the short-term water supply issues in Cambria. First and foremost, the CCSD declared a water emergency. The most significant part of this action included not allowing any additional intent to serve letters to be issued. In addition, the County no longer processes development permit applications without a valid intent-to-serve letter. CDP applications are accepted, but are put on "information hold" rather than being moved forward in the development review process.

A number of critical information needs still exist with respect to sustainable development in Cambria. These include completion of an instream flow management study for Santa Rosa and San Simeon Creek; completion of a water management strategy which includes water conservation, reuse of wastewater,



alternative water supply, and potential off stream impoundments; and cooperation of the County and CCSD to place a lot reduction ballot measure before the Cambria electorate. Calling an immediate halt to all new development in Cambria would be the most precautionary approach in terms of protecting coastal resources, but at least in the case of this project, does not appear justified based on the minimal impact it will have on water supplies. Another approach is to continue to move towards addressing unresolved resource concerns through a comprehensive planning process until critical information needs are completed, and plans are developed and implemented to comprehensively address water supply, rather than denying each proposal for the limited number of single-family residences in the “pipeline”.

Overall, the Commission recognizes the serious water supply situation in Cambria. Given the uncertainty surrounding sustainable water supplies in Cambria, it is critical that performance standards be completed and a plan of action developed and implemented to address this issue. Both the CCSD and the County have taken recent action to curb new water extractions. One example discussed is the recent moratorium on new development declared by the CCSD. Significantly, from the Commission’s standpoint this moratorium generally marks the end of new development for the time being, and is the first step towards meeting Public Works Policy 1 of the LCP. For new development consistent with the LCP and Coastal Act to proceed post-moratorium, significant strides will need to be made by the community of Cambria in addressing the water supply issue. In this case, though, the applicant has received a valid intent-to-serve letter from the CCSD, approved prior to the declaration of a moratorium on new water hookups. On balance, the Commission Staff recommends no substantial issue.

